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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,954

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EXAMINER

RUSSELL, CHRISTINA MARIE

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,954	Applicant(s) KUSANO, SEIICHI	
	Examiner CHRISTINA RUSSELL	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/06, 3/06, and 9/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. Figures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
3. Reference characters "8b" and "8d" have both been used to designate the "engager" throughout the Specification. For example, see pages 11-13, bottom of page 15 and page 16.
4. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

8. In terms of claim 1, the claim is a run-on sentence. There is no separation of the elements so it is generally unclear which elements correspond with which actions. Some examples of this indefiniteness are:

9. It is unclear if the “engager” of the third line is the same “engager” of the fourth, or if they are separate elements.

10. It is unclear what elements is at or what action is being done at “a plurality of points by engaging the engagers.

11. Similarly, it is unclear what action is done or is being done “through clamping the plate...

12. In that same line, it is unclear how the plate and adapter can be clamped, or just the plate.

13. The phrase “by means of engaging pieces passed fixing holes of the plate” is grammatically indefinite.
14. It is unclear what element is “elastically restored.
15. It is unclear to which part of the claim “and the engaging plate or the speaker frame” belongs.
16. As for claim 2, claim 1 states the presence of fixtures, while claim 2 merely states a singular fixture. It is unclear if this fixture is one of the fixtures mentioned in claim one or a separate element.
17. Also in claim 2 “the engager” is mentioned in the last line. It is unclear which engager is being referred to.
18. In terms of claim 3, all the points mentioned above with regards to claim 1 are also relevant for this claim as well; all except the clarity issue that deals with "clamping". Also in claim 3, the phrase “whereby a water intruding between...” is unclear, both grammatically, and how or where this “whereby” statement fits with the claim language.
19. In terms of claim 4, again, please see the remarks above with regards to claim 1. Also, the phrase “and elastically restored after passed the fixing hole” is unclear, along with the phrase, "to clamp the plate and an adaptor or the plate...", for similar reasons as seen in claim 1.
20. Please check all the claims for grammatical errors, as well as the Specification. Many of the discrepancies mentioned above were found in the Specification, as were many others.

Claim Rejections - 35 USC § 102

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

22. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese publication, provided by the Applicant, JP H04-34091, published on March 19, 1992 (henceforth referred to as '34091).

23. In terms of claims 1, 2 and 4, the translated portion of '34091, provided by the Applicant, teaches a speaker (S) and means for mounting said speaker to a plate (9). The speaker (S) is easily mounted and removed through fixtures, wherein the fixtures comprise a fixing member having an engaging part in one end and a screw hole in the other, and a plurality of nips between the screw hole and engaging part, and further a clamping member (see Figures 1-3, penetration holes (20), fastening devices (20), engagement splinters (21), and nips (23)). The fixing member is inserted into the penetration hole of the mounting plate, the engaging part of the fixing member is engaged with the speaker body, and the clamping member is inserted into the internal diameter part of the fixing member, whereby a screw is inserted into the screw hole, attaching the engaging part and the nip to the mounting plate. These fixtures are engaged through both sides of the mounting plate (9) and are present at a plurality of

points around said speaker (S), at the speaker frame, or flange (6), and the plate (9). Further, the nips (23) are more specifically installed between the screw hole (22) and engagement splinter (21), and the center parts of nips (23a) are bendable toward the direction of the circumference, or in other words the nips can be elastically deformed and restored (see Figures 1-3).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over '34091 in view of the US patent to Novitschitsch (6,457,547).

26. '34091 teaches all the similar elements as presented in claim 1, but fails to teach the presence of a water drainage system, which drains water outward from the plate and through an internal space close to the lower end of the mounting system.

Novitschitsch teaches a similar speaker mounting system, with a mounting plate, fixtures, having engaging members, or screws, a speaker frame, etc. Novitschitsch also provides a sealing lip that elastically deforms and restores during the mounting and removing process (see Figures 1 and 2, and column 1, lines 30-35, 41-48, and 54-56,

column 2, line 6 – column 3, line 61). However, Novitschitsch, unlike '34091, provides a water drain (43), positioned on the lower end of the mounting device and extending away from the support, or plate. Since '34091 and Novitschitsch both teach similar speaker mounting elements, both for use in automobiles, it would have been obvious to attach the water drain of Novitschitsch in the same location on the '34091 mounting system.

27. It can also be seen in the patent application publication to Kiriara et al. (US 2004/ 0037445) (see paragraphs [0153]-[0156], [0161], [0162], and [0169]) and the US patents to Hayakawa et al. (6,128,394) (see column 8, lines 51-67), Kurihara et al. (6,987,860) (see column 1, line 45 – column 2, line 4), Skrychi (4,853,966) (see column 3, lines 37-44), and Chen (6,626,262), that providing a water drain or waterproofing means is common when mounting a speaker, in particular in a automobile door panel or trunk, where moisture is more prevalent and more likely to emerge or seep in. Lerma (US 2005/0091739) shows that water drains have also been used in spa speakers, to allow the moisture, from a steam room for example, to be drained away from the speaker to prevent damage. Water drains placed within speaker mountings have been seen throughout the art to provide protection for speakers mounted in high moisture areas.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the Notice of References Cited provided by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINA RUSSELL whose telephone number is (571)272-4350. The examiner can normally be reached on Mon-Fri, 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
5/1/2008
/Lincoln Donovan/
Supervisory Patent Examiner, Art Unit 2837